

ENTERED

June 28, 2017

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

PASCUAL CARDENAS-RIVERA

Plaintiff

VS.

UNITED STATES OF AMERICA

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CIVIL ACTION NO. 5:17-CV-59

ORDER

On February 21, 2017, Plaintiff filed the present Motion for Return of Property, suing the Government for return of \$600, a Mexican identification card, and a religious artifact. (Dkt. No. 1). Plaintiff claims that these items were taken from him at the time of his arrest. (*Id.*). On March 23, 2017, U.S. Magistrate Judge Diana Song Quiroga issued an order directing Plaintiff to “(a) pay the \$400 filing fee; or (b) submit a completed application to proceed *in forma pauperis*, along with a certified copy of his inmate trust accords,” (Dkt. No. 2 at 2), no later than April 28, 2017. The order also warned that failure to comply may result in dismissal for lack of prosecution. (*Id.* at 1–2 (citing FED. R. CIV. P. 41)).

Plaintiff did not comply with these instructions. On May 11, 2017, Judge Song Quiroga issued a report and recommendation proposing that this action be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) for want of prosecution. (Dkt. No. 4). The report and recommendation also advised that any objections had to be filed within 14 days after being served with the report. (*Id.* at 3). While it does not appear that Defendant received a copy of the report and

recommendation,¹ this does not detract from the propriety of the suggested dismissal.

A court may dismiss an action *sua sponte* for failure to prosecute or follow an order of the court. FED. R. CIV. P. 41(b); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630 (1962). This power is necessary to “prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of District Courts.” *Link*, 370 U.S. at 629–30.

Defendant has been afforded ample time to comply with the instructions, yet he failed to do so. Therefore, the Court **ADOPTS** the report and recommendation, and this action is **DISMISSED WITHOUT PREJUDICE**.

It is so **ORDERED**.

SIGNED June 27, 2017.



Marina Garcia Marmolejo
United States District Judge

¹ A copy of the report and recommendation was sent to the address that Defendant provided in his Motion. (Dkt. No. 5). The mail, however, was returned as undeliverable. (Dkt. No. 6).